

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

DOCKET NO. 1:05CR209

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
1) RAPHAEL ARROYOS)
FERNANDEZ)
a/k/a Raphael Fernando Fernandez)
2) ARMIDA ARRAGON ARROYOS)
3) PEUJON DESLIN NAZIFI)
a/k/a "P.J.")
4) AHMAD NAZIFI)
a/k/a Amad Nazifi)

**MOTION FOR
PRELIMINARY ORDER
OF FORFEITURE**

Defendants.

NOW COMES the United States of America, by and through Gretchen C.F. Shappert, United States Attorney for the Western District of North Carolina, pursuant to 18 U.S.C. § 982, 21 U.S.C. § 853 and Fed. R. Crim. P. 32.2(b), and hereby respectfully moves the Court to enter a Preliminary Order of Forfeiture as to the defendants' property in this case. In support of this motion, the government shows the Court the following:

1. On June 6, 2005, the Grand Jury for the Western District of North Carolina returned a Bill of Indictment charging defendants Raphael Arroyos Fernandez and Peujon Deslin Nazifi in Count One with conspiracy to possess with intent to distribute cocaine and marijuana, a violation of 21 U.S.C. § 846; and defendants Raphael Arroyos Fernandez, Peujon Deslin Nazifi, Armida Arragon Arroyos, and Ahmad Nazifi in Count Two with conspiracy to commit money laundering, a violation of 18 U.S.C. § 1956(h). (Document 3).

2. The Bill of Indictment included a Notice of Forfeiture and Finding of Probable Cause, pursuant to 21 U.S.C. § 853 and Fed. R. Crim. P. 32.2, of all proceeds and property used to or intended to be used to facilitate the charged violations, substitute property for, including but not limited to:

- \$500,000 in proceeds
- a 2003 Mercedes Benz 500E VIN WDBUF70J23A112541
- real property located at 9392 East Grapevine Spring Place, Tucson, Arizona.

3. On October 25, 2005, a Superseding Bill of Indictment amended the Notice of Forfeiture to include property involved in the offenses charged pursuant to 18 U.S.C. § 982 and added a

– 2003 Honda motorcycle, serial number JH2PC37053M001212,

to the Notice of Forfeiture, the rest of the Superseding Bill of Indictment remaining the same as the Bill of Indictment. (Document 71).

4. On October 24, 2005, **Raphael Arroyos Fernandez** filed a **plea agreement** in which he agreed to plead guilty to Counts One and Two and to forfeit the residence at 9392 East Grapevine Spring Place, Tucson, Arizona. (Documents 70, ¶¶ 1, 6(a)).

5. On November 4, 2005, Raphael Arroyos Fernandez pleaded guilty to Counts One and Two pursuant to Fed. R. Crim. P. 11. (Document 82).

6. On November 1, 2005, **Peujon Deslin Nazifi** filed a **plea agreement** in which she agreed to plead guilty to Count Two and to forfeit the 2003 Mercedes Benz. (Document 76, ¶¶ 1, 6(a)).

7. On November 9, 2005, Peujon Deslin Nazifi pleaded guilty to Count Two pursuant to Fed. R. Crim. P. 11. (Document 90).

8. On November 17, 2005, the United States **dismissed** Count Two (the only count) against

Ahmad Nazifi. (Document 93).

9. On June 15, 2005, the Court issued a Warrant of Arrest for defendant **Armida Arragon Arroyos**. (Document 5). On August 18, 2005, the Warrant of Arrest was executed on Armida Arragon Arroyos, and she appeared in this Court on that date. (Document 24). On August 24, 2005, the Court arraigned her. (Document 47). On August 30, 2005, an Order of Detention was issued against her. (Document 58). On September 16, 2005, the Court issued an Order releasing her on bond. (Document 65). On September 27, 2005, the United States Probation Office informed the Court that she had **absconded bond**. (Document 67). The Court issued a Warrant of Arrest for her on the same date. (Document 68). As of the date of this motion, she remains a **fugitive**.

10. Based upon the Bill of Indictment, Superseding Bill of Indictment, plea agreements, and guilty pleas, the United States has established the requisite nexus between the following property:

- a 2003 Mercedes Benz 500E, VIN WDBUF70J23A112541, and

- real property located at 9392 East Grapevine Spring Place, Tucson, Arizona,

and the offenses to which the defendants have pleaded guilty. Accordingly, that property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 982, 21 U.S.C. § 853 and Fed. R. Crim P.32.2(b), and the United States is now entitled to possession of the properties.

11. The United States submits the attached Affidavit of DEA Agent Walt Thrower in which he gives a more complete description of the real property located at 9392 East Grapevine Spring Place, Tucson, Arizona.

12. The United States submits the attached Preliminary Order of Forfeiture and requests that the Court issue it.

13. Upon adjudication of all third-party interests, the government will ask the Court to enter

a final order of forfeiture pursuant to 21 U.S.C. § 853(n) and Fed. R. Crim. P. 32(c)(2).

Respectfully submitted this the 10th day of March, 2006.

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